

Remarks

Claims 2, 11-14, 92, 93, and 97-108 are pending in the application with claims 92, 93 and 102 being amended herein.

I. Specification

The Examiner has objected to the Abstract for being too long and for the use of technical language. Applicants have provided herein a replacement Abstract that is within the 150 word limit and makes use of less technical language. Applicants believe that the replacement abstract complies with the guidelines provided in the *Manual of Patent Examining Procedure* (MPEP) § 608.01(b) (eighth edition, revision 5, August 2006) and does not add new matter.

II. Rejection of the Claims Under 35 U.S.C. § 112, Second Paragraph.

Claims 92, 93 and 102 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicants regard as the invention. (Office Action, page 2.) Applicants thank the Examiner for pointing out this error and have amended claims 92, 93 and 102.

The Examiner asserts that the phrases “the reconstituted eukaryotic medium” and “the desired pH” in claim 92 lack antecedent basis. (Office Action, page 2.) As amended herein, claim 92 recites:

“The method of claim 2, wherein when said agglomerated eukaryotic medium powder is reconstituted with water, a reconstituted eukaryotic medium at a desired pH for culturing a eukaryotic cell is produced.”

Applicants believe that amended claim 92 provides proper antecedent basis for the phrases “a reconstituted eukaryotic medium” and “a desired pH.”

The Examiner points out that claims 93 and 102 recite abbreviations without providing the expanded form in parenthesis. (Office Action, page 3.) Applicants thank the Examiner for pointing out this omission and have amended claims 93 and 102 to provide the expanded form of the abbreviation in parenthesis.

Applicants believe that amended claims 92, 93 and 102 address the Examiners concerns but should the Examiner disagree or have further concerns, Applicants ask that the Examiner contact their representative at (240) 379-4173 to discuss these issues.

In view of the above, Applicants request that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. § 112, second paragraph.

III. Double Patenting.

Claims 2, 11-14, 97-99, 101, 107 and 108 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9, 11, 12, and 21-23 of U.S. Patent No. 6,383,810. (Office Action, page 4.)

Claim 2 stands provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending Application 11/434,513. (Office Action, page 6.)

Claims 2, 92, 97-99 and 101-106 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 5-11 of co-pending Application 11/669,827. (Office Action, page 6.) Applicants believe that the Examiner intended to cite claims 8-11 and not claims 5-11.

Filed with this reply are Terminal Disclaimers disclaiming the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,383,810 or Patents which may issue from U.S. Patent Application 11/434,513.

Also filed with this reply are statements under 37 C.F.R. § 3.73(b) providing a chain of title for Invitrogen Corp., the Assignee of U.S. Patent No. 6,383,810 and U.S. Patent Application 11/434,513. The statements under 37 C.F.R. § 3.73(b) are signed by the Applicants representative who is an employee of the Assignee, Invitrogen Corp., and is authorized to sign on behalf of Invitrogen for this matter.

In regard to the double patenting rejection over U.S. Application 11/669,827, Applicants note that there is an error in the claim language of the currently pending claims in this application. It is Applicants intention to cancel currently pending claims 1 and 8-11 of U.S. Application 11/669,827 in a preliminary amendment. These claims will be replaced by composition of matter claims. Once allowable subject matter has been determined in the present application, Applicants will consider filing a terminal disclaimer to U.S. Application 11/669,827 if needed.

In view of the above, Applicants request that the Examiner reconsider and withdraw the Double Patenting rejection of the claims.

Conclusion

Applicants believe that a full and complete Reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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